

REMARKS

Status of the Claims

Claims 1-3 and 5-17 are pending in this application. Claim 4 has been canceled. No claims have been added. The claims have been amended to define the specific heteroatoms and the substituents. Claims 11-16 have also been amended to recite a "pharmaceutical composition" instead of a "medicament". Claim 17 has been amended to insert the diseases to be treated. No new matter has been added by the above claim amendments. Support for the above claim amendments is found at pages 12, 15, 61, 64 and 65 of the specification. Additional minor grammatical amendments have also been made.

Restriction Requirement

The Examiner has issued a Restriction Requirement for an election of species to begin searching the invention. The Examiner requests that Applicants elect a specific heterocyclic ring for Z.

Applicants elect with traverse the species as defined in Production Example 37e on page 204 of the specification where Z is a benzene ring, which may have 0 to 4 substituents.

Applicants submit that the Examiner is under no undue burden to examine the entire scope of Z in the initial examination. Z is defined as a C₅₋₆ aromatic hydrocarbon group. Also, the compounds,

which fall within the scope of Z, are limited and would not overburden the Examiner to examine the full scope of Z in unison. As such, Applicants respectfully request that the restriction requirement be withdrawn.

Rejection under 35 USC 112, second paragraph

The Examiner rejects claim 1 for the proviso, for the phrase "one or more substituents" and for not defining the heteroatoms. Applicants traverse the rejection and respectfully request the withdrawal thereof.

Applicants amend the claims to recite the heteroatoms and the substituents for substituted groups. Support for these amendments is found in the specification at pages 12, 15 and 61. Applicants also amend the claims to delete the phrase "one or more substituents" and insert the phrase "substituted".

Applicants submit that the metes and bounds of the claimed compounds are defined even with the proviso as the claims particularly and distinctly set forth the subject matter of the invention.

The Examiner also rejects claims 6, 9 and 10 as indefinite because of the phrase "one or more substituents" since the substituents are not defined. Applicants amend the claims to

define the substituents and amend the claims to delete the phrase "one or more substituents" and insert "substituted".

The Examiner rejects claims 11-16 for the preamble "medicament". Applicants amend the claims to recite a "pharmaceutical composition" and add the element of a pharmaceutically acceptable carrier.

Applicants respectfully request the withdrawal of the indefiniteness rejections as Applicants have amended the claims to particularly and distinctly set forth the subject matter of the invention.

Rejection under 35 USC 112, first paragraph

The Examiner rejects claim 17, the method claim, because no specific diseases are recited that are associated with PPAR agonists. Applicants amend the claims to recite the treatment of diabetes mellitus, x syndromes, hyperglycemia and hyperlipemia. As such, the rejection should be withdrawn.

Rejection under 35 USC 101

The Examiner also rejects claim 18 is an improper use claim. Applicants deleted claim 18 in the Preliminary Amendment. Thus, the rejection should be withdrawn as moot.

Conclusion

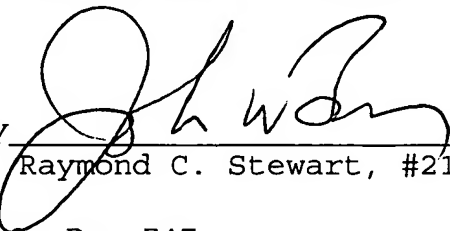
As Applicants have addressed and overcome all rejections in the Office Action, Applicants respectfully request that the rejections be withdrawn and that the claims be allowed.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Kecia Reynolds (Reg. No. 47,021) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By  #32,821

Raymond C. Stewart, #21,066

RCS/KJR/jao

P.O. Box 747
Falls Church, VA 22040-0747
(703) 205-8000